

State of South Dakota

SEVENTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2000

394D0740

HOUSE BILL NO. 1283

Introduced by: Representatives Brooks, Hennies, and Kooistra and Senators Munson (David), Albers, and Daugaard

1 FOR AN ACT ENTITLED, An Act to clarify when a defendant may be granted court-appointed
2 counsel for certain misdemeanor offenses.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23A-40-6.1 be amended to read as follows:

5 23A-40-6.1. At the time of arraignment for a violation of a Class 2 misdemeanor or a
6 violation of an ordinance or at the time of the hearing for a petty offense, the circuit court judge
7 or magistrate may conclude and state on the record, in the defendant's presence, that the
8 defendant will not be deprived of ~~his~~ liberty if ~~he is~~ convicted. The circuit court judge's or
9 magistrate's statement that the defendant will not be deprived of ~~his~~ liberty if ~~he is~~ convicted shall
10 be made before the defendant enters ~~his~~ a plea. If the defendant is not in custody and if the court
11 has concluded that ~~he~~ the defendant will not be deprived of ~~his~~ liberty if ~~he is~~ convicted, an
12 indigent defendant charged with violating a Class 2 misdemeanor, an ordinance not having a
13 penalty greater than a Class 2 misdemeanor or a petty offense, is not entitled to court assigned
14 counsel. For the purposes of this section, a defendant is not deprived of liberty if a circuit court
15 judge or magistrate elects to impose a jail sentence, suspended upon conditions, if the suspended
16 jail sentence does not exceed thirty days in length. However, if the suspended jail sentence is

- 1 subject to revocation proceedings at a later date, the defendant is entitled to court-appointed
- 2 counsel for those proceedings.